

REFERENCE TITLE: nondiscrimination; accommodation; employment; housing.

State of Arizona
House of Representatives
Forty-eighth Legislature
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2008

HB 2712

Introduced by
Representatives Campbell CL, Ableser, Lujan, Meza, Miranda B, Senator
Landrum Taylor: Representative Campbell CH

AN ACT

AMENDING SECTIONS 41-1441, 41-1442, 41-1461, 41-1463, 41-1464, 41-1491,
41-1491.14, 41-1491.15, 41-1491.16, 41-1491.17, 41-1491.20 AND 41-1491.21,
ARIZONA REVISED STATUTES; RELATING TO UNLAWFUL DISCRIMINATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1441, Arizona Revised Statutes, is amended to
3 read:

4 ~~41-1441.~~ Definitions

5 In this article, unless the context otherwise requires:

6 1. "DISABILITY" MEANS WITH RESPECT TO AN INDIVIDUAL:

7 (a) A PHYSICAL OR MENTAL IMPAIRMENT.

8 (b) A RECORD OF A PHYSICAL OR MENTAL IMPAIRMENT.

9 (c) BEING REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT.

10 THE DETERMINATION OF WHETHER AN INDIVIDUAL HAS A PHYSICAL OR MENTAL
11 IMPAIRMENT SHALL BE MADE WITHOUT CONSIDERING THE IMPACT OF ANY MITIGATING
12 MEASURES THE INDIVIDUAL MAY OR MAY NOT BE USING, INCLUDING ANY MEDICATION,
13 DEVICES AND PERSONAL OR TECHNOLOGICAL AIDS, OR WHETHER OR NOT ANY
14 MANIFESTATIONS OF AN IMPAIRMENT ARE EPISODIC, IN REMISSION OR LATENT. ACTIONS
15 TAKEN BY A COVERED ENTITY WITH RESPECT TO AN INDIVIDUAL BECAUSE OF THAT
16 INDIVIDUAL'S USE OF A MITIGATING MEASURE OR BECAUSE OF A SIDE EFFECT OR OTHER
17 CONSEQUENCE OF THE USE OF SUCH A MEASURE SHALL BE CONSIDERED ACTIONS TAKEN ON
18 THE BASIS OF A DISABILITY.

19 2. "GENDER IDENTITY OR EXPRESSION" MEANS A PERSON'S GENDER-RELATED
20 SELF-IDENTITY, APPEARANCE, EXPRESSION OR BEHAVIOR, REGARDLESS OF THE PERSON'S
21 ASSIGNED SEX AT BIRTH.

22 ~~1-~~ 3. "Person" means an individual, corporation, partnership,
23 unincorporated association, or other organization, and includes the owner,
24 lessee, operator, proprietor, manager, superintendent, agent, or employee of
25 any place of public accommodation.

26 4. "PHYSICAL CHARACTERISTIC" MEANS A BODILY CONDITION OR BODILY
27 CHARACTERISTIC OF ANY PERSON THAT IS FROM BIRTH, ACCIDENT OR DISEASE, OR FROM
28 ANY NATURAL PHYSICAL DEVELOPMENT OR ANY OTHER EVENT OUTSIDE THE CONTROL OF
29 THAT PERSON, INCLUDING INDIVIDUAL PHYSICAL MANNERISMS INCLUDING HEIGHT AND
30 WEIGHT. PHYSICAL CHARACTERISTICS DO NOT RELATE TO THOSE SITUATIONS WHERE A
31 BODILY CONDITION OR CHARACTERISTIC WILL PRESENT A DANGER TO THE HEALTH,
32 WELFARE OR SAFETY OF ANY INDIVIDUAL.

33 ~~2-~~ 5. "Places of public accommodation" means all public places of
34 entertainment, amusement or recreation, all public places where food or
35 beverages are sold for consumption on the premises, all public places which
36 are conducted for the lodging of transients or for the benefit, use or
37 accommodation of those seeking health or recreation and all establishments
38 which cater or offer their services, facilities or goods to or solicit
39 patronage from the members of the general public. Any dwelling as defined in
40 section 41-1491, or any private club, or any place which is in its nature
41 distinctly private is not a place of public accommodation.

42 6. "SEXUAL ORIENTATION" MEANS A PERSON'S REAL OR PERCEIVED
43 HETEROSEXUALITY, HOMOSEXUALITY OR BISEXUALITY.

1 Sec. 2. Section 41-1442, Arizona Revised Statutes, is amended to read:
2 41-1442. Discrimination in places of public accommodation:
3 exceptions

4 A. Discrimination in places of public accommodation against any person
5 because of ~~race, color, religion, sex, national origin or ancestry~~ AGE, RACE,
6 COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL
7 STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL
8 CHARACTERISTIC is contrary to the policy of this state and shall be deemed
9 unlawful.

10 B. No person shall, directly or indirectly, refuse to, withhold from
11 or deny to any person, nor aid in or incite such refusal to deny or withhold,
12 accommodations, advantages, facilities or privileges thereof because of ~~race,~~
13 ~~color, religion, sex, national origin or ancestry~~ AGE, RACE, COLOR, CREED,
14 RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER
15 IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC, nor
16 shall distinction be made with respect to any person based on ~~race, color,~~
17 ~~religion, sex, national origin or ancestry~~ AGE, RACE, COLOR, CREED, RELIGION,
18 NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY
19 OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC in connection
20 with the price or quality of any item, goods or services offered by or at any
21 place of public accommodation.

22 C. Any person who is under the influence of alcohol or narcotics, who
23 is guilty of boisterous conduct, who is of lewd or immoral character, who is
24 physically violent or who violates any regulation of any place of public
25 accommodation that applies to all persons regardless of ~~race, color,~~
26 ~~religion, sex, national origin or ancestry~~ AGE, RACE, COLOR, CREED, RELIGION,
27 NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY
28 OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC may be excluded
29 from any such place of public accommodation and nothing in this article shall
30 be considered to limit the right of such exclusion.

31 Sec. 3. Section 41-1461, Arizona Revised Statutes, is amended to read:
32 41-1461. Definitions

33 In this article, unless the context otherwise requires:

34 1. "Covered entity" means an employer, employment agency, labor
35 organization or joint labor-management committee.

36 2. "Disability" means, with respect to an individual, except any
37 impairment caused by current use of illegal drugs, any of the following:

38 (a) A physical or mental impairment that substantially limits one or
39 more of the major life activities of the individual.

40 (b) A record of such a physical or mental impairment.

41 (c) Being regarded as having such a physical or mental impairment.

42 3. "Employee":

43 (a) Means an individual employed by an employer.

44 (b) Does not include an elected public official of this state or any
45 political subdivision of this state, any person chosen by an elected official

1 to be on the elected official's personal staff, an appointee on the
2 policymaking level or an immediate adviser with respect to the exercise of
3 the constitutional or legal powers of the office, unless the person or
4 appointee is subject to the civil service laws of this state or any political
5 subdivision of this state.

6 4. "Employer":

7 (a) Means a person who has fifteen or more employees for each working
8 day in each of twenty or more calendar weeks in the current or preceding
9 calendar year, and any agent of that person, except that to the extent that
10 any person is alleged to have committed any act of sexual harassment,
11 employer means, for purposes of administrative and civil actions regarding
12 those allegations of sexual harassment, a person who has one or more
13 employees in the current or preceding calendar year.

14 (b) Does not include either:

15 (i) The United States or any department or agency of the United
16 States, a corporation wholly owned by the government of the United States or
17 an Indian tribe.

18 (ii) A bona fide private membership club, other than a labor
19 organization, that is exempt from taxation under section 501(c) of the
20 internal revenue code of 1954.

21 5. "Employment agency" means any person regularly undertaking with or
22 without compensation to procure employees for an employer or to procure for
23 employees opportunities to work for an employer and includes an agent of that
24 person.

25 6. "GENDER IDENTITY OR EXPRESSION" HAS THE SAME MEANING PRESCRIBED IN
26 SECTION 41-1441.

27 ~~6.~~ 7. "Labor organization":

28 (a) Means a labor organization and any agent of a labor organization.

29 (b) Includes:

30 (i) Any organization of any kind, any agency or employee
31 representation committee, group, association or plan in which fifteen or more
32 employees participate and that exists for the purpose, in whole or in part,
33 of dealing with employers concerning grievances, labor disputes, wages, rates
34 of pay, hours or other terms or conditions of employment.

35 (ii) Any conference, general committee, joint or system board or joint
36 council that is subordinate to a national or international labor
37 organization.

38 ~~7.~~ 8. "Person" means one or more individuals, governmental agencies,
39 political subdivisions, labor unions, partnerships, associations,
40 corporations, legal representatives, mutual companies, joint-stock companies,
41 trusts, unincorporated organizations, trustees, trustees in bankruptcy or
42 receivers.

43 9. "PHYSICAL CHARACTERISTIC" HAS THE SAME MEANING PRESCRIBED IN
44 SECTION 41-1441.

1 ~~8-~~ 10. "Qualified individual with a disability" means a person with a
2 disability who, with or without reasonable accommodation, is capable of
3 performing the essential functions of the employment position that the
4 individual holds or desires.

5 ~~9-~~ 11. "Reasonable accommodation" includes:

6 (a) Making existing facilities used by employees readily accessible to
7 and usable by individuals with disabilities.

8 (b) Job restructuring, part-time or modified work schedules,
9 reassignment to a vacant position, acquisition or modification of equipment
10 or devices, appropriate adjustment or modification of examinations, training
11 materials or policies, the provision of qualified readers or interpreters and
12 other similar accommodations for individuals with disabilities.

13 ~~10-~~ 12. "Religion" means all aspects of religious observance and
14 practice, as well as belief. Unlawful practices as prohibited by this
15 article include practices with respect to religion unless an employer
16 demonstrates that the employer is unable to reasonably accommodate to an
17 employee's or prospective employee's religious observance or practice without
18 undue hardship on the conduct of the employer's business.

19 13. "SEXUAL ORIENTATION" HAS THE SAME MEANING PRESCRIBED IN SECTION
20 41-1441.

21 ~~11-~~ 14. "Undue hardship":

22 (a) Means an action requiring significant difficulty or expense when
23 considered in light of the factors set forth in subdivision (b) of this
24 paragraph.

25 (b) When determining whether an accommodation would impose an undue
26 hardship on a covered entity, factors to be considered include:

27 (i) The nature and cost of the accommodations needed under this
28 article.

29 (ii) The overall financial resources of the facility or facilities
30 involved in the provision of the reasonable accommodation, the number of
31 persons employed at the facility, the effect on expenses and resources of the
32 facility and any other impact of the accommodation on the operation of the
33 facility.

34 (iii) The overall financial resources of the covered entity, the
35 overall size of the business of the covered entity with respect to the number
36 of its employees and the number, type and location of its facilities.

37 (iv) The type of operation or operations of the covered entity,
38 including the composition, structure and functions of the workforce of the
39 covered entity.

40 (v) The geographic separateness and the administrative or fiscal
41 relationship of the facility to the covered entity.

42 Sec. 4. Section 41-1463, Arizona Revised Statutes, is amended to read:

43 41-1463. Discrimination; unlawful practices; definition

44 A. Nothing contained in this article shall be interpreted to require
45 that the less qualified be preferred over the better qualified simply because

1 of ~~race, color, religion, sex, age, disability or national origin~~ AGE, RACE,
2 COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL
3 STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL
4 CHARACTERISTIC.

5 B. It is an unlawful employment practice for an employer:

6 1. To fail or refuse to hire or to discharge any individual or
7 otherwise to discriminate against any individual with respect to the
8 individual's compensation, terms, conditions or privileges of employment
9 because of the individual's ~~race, color, religion, sex, age, disability or~~
10 ~~national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY,
11 DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL
12 ORIENTATION OR PHYSICAL CHARACTERISTIC.

13 2. To limit, segregate or classify employees or applicants for
14 employment in any way which would deprive or tend to deprive any individual
15 of employment opportunities or otherwise adversely affect the individual's
16 status as an employee, because of the individual's ~~race, color, religion,~~
17 ~~sex, age, disability or national origin~~ AGE, RACE, COLOR, CREED, RELIGION,
18 NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY
19 OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.

20 3. To fail or refuse to hire, to discharge, or to otherwise
21 discriminate against any individual based on the results of a genetic test
22 received by the employer, notwithstanding subsection I, paragraph 2 of this
23 section.

24 C. It is an unlawful employment practice for an employment agency to
25 fail or refuse to refer for employment or otherwise to discriminate against
26 any individual because of the individual's ~~race, color, religion, sex, age,~~
27 ~~disability or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL
28 ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY OR
29 EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC or to classify or
30 refer for employment any individual on the basis of the individual's ~~race,~~
31 ~~color, religion, sex, age, disability or national origin~~ AGE, RACE, COLOR,
32 CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX,
33 GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.

34 D. It is an unlawful employment practice for a labor organization:

35 1. To exclude or to expel from its membership or otherwise to
36 discriminate against any individual because of the individual's ~~race, color,~~
37 ~~religion, sex, age, disability or national origin~~ AGE, RACE, COLOR, CREED,
38 RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER
39 IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.

40 2. To limit, segregate or classify its membership or applicants for
41 membership or to classify or fail or refuse to refer for employment any
42 individual in any way which would deprive or tend to deprive the individual
43 of employment opportunities or would limit those employment opportunities or
44 otherwise adversely affect the individual's status as an employee or as an
45 applicant for employment because of the individual's ~~race, color, religion,~~

1 ~~sex, age, disability or national origin~~ AGE, RACE, COLOR, CREED, RELIGION,
2 NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY
3 OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.

4 3. To cause or attempt to cause an employer to discriminate against an
5 individual in violation of this section.

6 E. It is an unlawful employment practice for any employer, labor
7 organization or joint labor-management committee controlling apprenticeship
8 or other training or retraining programs, including on-the-job training
9 programs, to discriminate against any individual because of the individual's
10 ~~race, color, religion, sex, age, disability or national origin~~ AGE, RACE,
11 COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL
12 STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL
13 CHARACTERISTIC in admission to or employment in any program established to
14 provide apprenticeship or other training and, if the individual is an
15 otherwise qualified individual with a disability, to fail or refuse to
16 reasonably accommodate the individual's disability.

17 F. With respect to an individual with a disability, it is an unlawful
18 employment practice for a covered entity to:

19 1. Participate in any contractual or other arrangement or relationship
20 that has the effect of subjecting a qualified individual with a disability
21 who applies with or who is employed by the covered entity to unlawful
22 employment discrimination.

23 2. Use standards, criteria or methods of administration that have the
24 effect of discriminating on the basis of disability or that perpetuate the
25 discrimination of others who are subject to common administrative control.

26 3. Exclude or otherwise deny equal jobs or benefits to a qualified
27 individual because of the known disability of an individual with whom the
28 qualified individual is known to have a relationship or association.

29 4. Not make reasonable accommodations to the known physical or mental
30 limitations of an otherwise qualified individual with a disability who is an
31 applicant or employee unless the covered entity can demonstrate that the
32 accommodation would impose an undue hardship on the operation of the business
33 of the covered entity.

34 5. Deny employment opportunities to a job applicant or employee who is
35 an otherwise qualified individual with a disability if the denial is based on
36 the need of the covered entity to make reasonable accommodation to the
37 physical or mental impairment of the applicant or employee.

38 6. Use qualification standards, employment tests or other selection
39 criteria that screen out or tend to screen out an individual with a
40 disability or a class of individuals with disabilities, unless the standard,
41 test or other selection criteria, as used by the covered entity, is shown to
42 be job related for the position in question and is consistent with business
43 necessity.

44 7. Fail to select and administer tests relating to employment in the
45 most effective manner to ensure that, when the test is administered to a job

1 applicant or employee who has a disability that impairs sensory, manual or
2 speaking skills, the test results accurately reflect the skills, ~~OR~~ aptitude
3 or whatever other factor of the applicant or employee that the test purports
4 to measure, rather than reflecting the impaired sensory, manual or speaking
5 skills of the applicant or employee, except if the skills are the factors
6 that the test purports to measure.

7 G. Notwithstanding any other provision of this article, it is not an
8 unlawful employment practice:

9 1. For an employer to hire and employ employees, for an employment
10 agency to classify or refer for employment any individual, for a labor
11 organization to classify its membership or classify or refer for employment
12 any individual, or for an employer, labor organization or joint
13 labor-management committee controlling apprenticeship or other training or
14 retraining programs to admit or employ any individual in any such program, on
15 the basis of the individual's religion, sex or national origin in those
16 certain instances when religion, sex or national origin is a bona fide
17 occupational qualification reasonably necessary to the normal operation of
18 that particular business or enterprise.

19 2. For any school, college, university or other educational
20 institution or institution of learning to hire and employ employees of a
21 particular religion if the school, college, university or other educational
22 institution or institution of learning is in whole or in substantial part
23 owned, supported, controlled or managed by a particular religion or religious
24 corporation, association or society, or if the curriculum of the school,
25 college, university or other educational institution or institution of
26 learning is directed toward the propagation of a particular religion.

27 3. For an employer to fail or refuse to hire or employ any individual
28 for any position, for an employment agency to fail or refuse to refer any
29 individual for employment in any position or for a labor organization to fail
30 or refuse to refer any individual for employment in any position, if both of
31 the following apply:

32 (a) The occupancy of the position or access to the premises in or upon
33 which any part of the duties of the position are performed or are to be
34 performed is subject to any requirement imposed in the interest of the
35 national security of the United States under any security program in effect
36 pursuant to or administered under any statute of the United States or any
37 executive order of the President of the United States.

38 (b) The individual has not fulfilled or has ceased to fulfill that
39 requirement.

40 4. With respect to age, for an employer, employment agency or labor
41 organization:

42 (a) To take any action otherwise prohibited under subsection B, C or D
43 of this section if age is a bona fide occupational qualification reasonably
44 necessary to the normal operation of the particular business or if the
45 differentiation is based on reasonable factors other than age.

(b) To observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, deferred compensation or insurance plan, which is not a subterfuge to evade the purposes of the age discrimination provisions of this article, except that no employee benefit plan may excuse the failure to hire any individual and no seniority system or employee benefit plan may require or permit the involuntary retirement of any individual specified by section 41-1465 because of the individual's age.

(c) To discharge or otherwise discipline an individual for good cause.

H. As used in this article, unlawful employment practice does not include any action or measure taken by an employer, labor organization, joint labor-management committee or employment agency with respect to an individual who is a member of the communist party of the United States or of any other organization required to register as a communist-action or communist-front organization by final order of the subversive activities control board pursuant to the subversive activities control act of 1950.

I. Notwithstanding any other provision of this article, it is not an unlawful employment practice:

1. For an employer to apply different standards of compensation or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that these differences are not the result of an intention to discriminate because of ~~race, color, religion, sex or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.

2. For an employer to give and act upon the results of any professionally developed ability test provided that the test, its administration or action upon the results is not designed, intended or used to discriminate because of ~~race, color, religion, sex or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.

3. For any employer to differentiate upon the basis of sex or disability in determining the amount of the wages or compensation paid or to be paid to employees of the employer if the differentiation is authorized by the provisions of section 6(d) or section 14 of the fair labor standards act of 1938, as amended (29 United States Code section 206(d)).

J. Nothing contained in this chapter applies to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of the business or enterprise under which a preferential treatment is given to any individual because the individual is an Indian living on or near a reservation.

1 K. Nothing contained in this article or article 6 of this chapter
2 requires any employer, employment agency, labor organization or joint
3 labor-management committee subject to this article to grant preferential
4 treatment to any individual or group because of the ~~race, color, religion,~~
5 ~~sex or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN,
6 ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION,
7 SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC of the individual or group on
8 account of an imbalance which may exist with respect to the total number or
9 percentage of persons of any ~~race, color, religion, sex or national origin~~
10 AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY,
11 MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR
12 PHYSICAL CHARACTERISTIC employed by any employer, referred or classified for
13 employment by any employment agency or labor organization, admitted to
14 membership or classified by any labor organization or admitted to or employed
15 in any apprenticeship or other training program, in comparison with the total
16 number or percentage of persons of that ~~race, color, religion, sex or~~
17 ~~national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY,
18 DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL
19 ORIENTATION OR PHYSICAL CHARACTERISTIC in any community, state, section or
20 other area, or in the available work force in any community, state, section
21 or other area.

22 L. Nothing in the age discrimination prohibitions of this article may
23 be construed to prohibit compulsory retirement of any employee who has
24 attained sixty-five years of age and who, for the two year period immediately
25 before retirement, is employed in a bona fide executive or high policymaking
26 position, if the employee is entitled to an immediate nonforfeitable annual
27 retirement benefit from a pension, profit sharing, savings or deferred
28 compensation plan or any combination of plans of the employer for the
29 employee, which equals, in the aggregate, at least forty-four thousand
30 dollars. In applying the retirement benefit test of this subsection, if any
31 retirement benefit is in a form other than a straight life annuity, with no
32 ancillary benefits, or if employees contribute to the plan or make rollover
33 contributions, the benefit shall be adjusted in accordance with rules adopted
34 by the division so the benefit is the equivalent of a straight life annuity,
35 with no ancillary benefits, under a plan to which employees do not contribute
36 and under which no rollover contributions are made.

37 M. A covered entity may require that an individual with a disability
38 shall not pose a direct threat to the health or safety of other individuals
39 in the workplace. For the purposes of this subsection, "direct threat" means
40 a significant risk to the health or safety of others that cannot be
41 eliminated by reasonable accommodation.

42 N. For the purposes of this section and section 41-1481, with respect
43 to employers or employment practices involving a disability, "individual"
44 means a qualified individual with a disability.

1 Sec. 5. Section 41-1464, Arizona Revised Statutes, is amended to read:

2 41-1464. Other unlawful employment practices: opposition to
3 unlawful practices: filing of charges; participation
4 in proceedings; notices and advertisements for
5 employment

6 A. It is an unlawful employment practice for an employer to
7 discriminate against any of his employees or applicants for employment, for
8 an employment agency or joint labor-management committee controlling
9 apprenticeship or other training or retraining programs, including on-the-job
10 training programs, to discriminate against any individual or for a labor
11 organization to discriminate against any member or applicant for membership
12 because the member or applicant has opposed any practice which is an unlawful
13 employment practice under this article or has made a charge, testified,
14 assisted or participated in any manner in an investigation, proceeding or
15 hearing under article 6 of this chapter.

16 B. It is ~~AN~~ unlawful employment practice for an employer, labor
17 organization, employment agency or joint labor-management committee
18 controlling apprenticeship or other training or retraining programs,
19 including on-the-job training programs, to print or publish or cause to be
20 printed or published any notice or advertisement relating to employment by
21 such an employer or membership in or any classification or referral for
22 employment by such a labor organization or relating to any classification or
23 referral for employment by such an employment agency or relating to admission
24 or to employment in any program established to provide apprenticeship or
25 other training by such a joint labor-management committee indicating any
26 preference, limitation, specification or discrimination based on ~~race, color,~~
27 ~~religion, sex or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL
28 ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, GENDER IDENTITY OR
29 EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC, except that such a
30 notice or advertisement may indicate a preference, limitation, specification
31 or discrimination based on religion, sex or national origin when religion,
32 sex or national origin is a bona fide occupational qualification for
33 employment.

34 C. It is unlawful for an employer, labor organization or employment
35 agency to print or publish or cause to be printed or published any notice or
36 advertisement relating to employment by an employer or membership in or any
37 classification or referral for employment by a labor organization ~~or relating~~
38 ~~to any classification or referral for employment by a labor organization~~ or
39 relating to any classification or referral for employment by an employment
40 agency, indicating any preference, limitation, specification or
41 discrimination based on age, except such a notice or advertisement may
42 indicate a preference, limitation, specification or discrimination based on
43 age when age is a bona fide occupational qualification for employment.

1 Sec. 6. Section 41-1491, Arizona Revised Statutes, is amended to read:

2 ~~41-1491.~~ Definitions

3 In this article, unless the context otherwise requires:

4 1. "Aggrieved person" includes any person who either:

5 (a) Claims to have been injured by a discriminatory housing practice.

6 (b) Believes that he will be injured by a discriminatory housing
7 practice that is about to occur.

8 2. "Complainant" means a person, including the attorney general, who
9 files a complaint under section 41-1491.22.

10 3. "Conciliation" means the attempted resolution of issues raised by a
11 complaint or by the investigation of the complaint through informal
12 negotiations involving the aggrieved person, the respondent and the attorney
13 general.

14 4. "Conciliation agreement" means a written agreement setting forth
15 the resolution of the issues in conciliation.

16 5. "Disability" means a mental or physical impairment that
17 substantially limits at least one major life activity, a record of such an
18 impairment or being regarded as having such an impairment. Disability does
19 not include current illegal use of or addiction to any drug or illegal or
20 federally controlled substance. Disability shall be defined as the term is
21 defined by the Americans with disabilities act of 1990 (P.L. 101-336).

22 6. "Discriminatory housing practice" means an act prohibited by
23 sections 41-1491.14 through 41-1491.21.

24 7. "Dwelling" means either:

25 (a) Any building, structure or part of a building or structure that is
26 occupied as, or designed or intended for occupancy as, a residence by one or
27 more families.

28 (b) Any vacant land that is offered for sale or lease for the
29 construction or location of a building, structure or part of a building or
30 structure described by subdivision (a) of this paragraph.

31 8. "Family" includes a single individual.

32 9. "GENDER IDENTITY OR EXPRESSION" HAS THE SAME MEANING PRESCRIBED IN
33 SECTION 41-1441.

34 ~~9-~~ 10. "Person" means one or more individuals, corporations,
35 partnerships, associations, labor organizations, legal representatives,
36 mutual companies, joint stock companies, trusts, unincorporated
37 organizations, trustees, receivers, fiduciaries, banks, credit unions and
38 financial institutions.

39 11. "PHYSICAL CHARACTERISTIC" HAS THE SAME MEANING PRESCRIBED IN
40 SECTION 41-1441.

41 ~~10-~~ 12. "Respondent" means either:

42 (a) The person accused of a violation of this article in a complaint
43 of a discriminatory housing practice.

(b) Any person identified as an additional or substitute respondent under section 41-1491.25 or an agent of an additional or substitute respondent.

13. "SEXUAL ORIENTATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1441.

~~11.~~ 14. "To rent" includes to lease, to sublease, to let or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

Sec. 7. Section 41-1491.14, Arizona Revised Statutes, is amended to read:

41-1491.14. Discrimination in sale or rental

A. A person may not refuse to sell or rent after a bona fide offer has been made or refuse to negotiate for the sale or rental of or otherwise make unavailable or deny a dwelling to any person because of ~~race, color, religion, sex, familial status or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, FAMILIAL STATUS, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.

B. A person may not discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental, because of ~~race, color, religion, sex, familial status or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, FAMILIAL STATUS, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.

C. This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

Sec. 8. Section 41-1491.15, Arizona Revised Statutes, is amended to read:

41-1491.15. Publication of sales or rentals

A person may not make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on ~~race, color, religion, sex, disability, familial status or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, FAMILIAL STATUS, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC or an intention to make such a preference, limitation or discrimination.

Sec. 9. Section 41-1491.16, Arizona Revised Statutes, is amended to read:

41-1491.16. Inspection of dwelling

A person may not represent to any person because of ~~race, color, religion, sex, disability, familial status or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, FAMILIAL

STATUS, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC that a dwelling is not available for inspection for sale or rental if the dwelling is available for inspection.

Sec. 10. Section 41-1491.17, Arizona Revised Statutes, is amended to read:

41-1491.17. Entry into neighborhood

A person, for profit, may not induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular ~~race, color, religion, sex, disability, familial status or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, FAMILIAL STATUS, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.

Sec. 11. Section 41-1491.20, Arizona Revised Statutes, is amended to read:

41-1491.20. Residential real estate related transaction; definition

A. A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in the terms or conditions of a real estate related transaction because of ~~race, color, religion, sex, disability, familial status or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, FAMILIAL STATUS, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.

B. In this section, "residential real estate related transaction" means:

1. Making or purchasing loans or providing other financial assistance either:

- (a) To purchase, construct, improve, repair or maintain a dwelling.
- (b) To secure residential real estate.

2. Selling, brokering or appraising residential real property.

Sec. 12. Section 41-1491.21, Arizona Revised Statutes, is amended to read:

41-1491.21. Brokerage services

A person may not deny any person access to, or membership or participation in, a multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings or may not discriminate against a person in the terms or conditions of access, membership or participation in such an organization, service or facility because of ~~race, color, religion, sex, disability, familial status or national origin~~ AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, FAMILIAL STATUS, MARITAL STATUS, SEX, GENDER IDENTITY OR EXPRESSION, SEXUAL ORIENTATION OR PHYSICAL CHARACTERISTIC.